

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SHELBY ENERGY COOPERATIVE, INC.	)	CASE NO.
_____	)	2011-00403
ALLEGED FAILURE TO COMPLY WITH KRS	)	
278.020(1)	)	

ORDER

By Order entered October 10, 2011, the Commission directed Shelby Energy Cooperative, Inc. ("Shelby Energy") to appear at a hearing on December 7, 2011 to show cause why it should not be subject to the penalties prescribed in KRS 278.990 for one alleged violation of KRS 278.020(1) by beginning construction of Advanced Metering Infrastructure ("AMI"), without first obtaining a Certificate of Public Convenience and Necessity ("CPCN"). Shelby Energy's AMI was a project included as an amendment to its 2010-2014 Construction Work Plan ("CWP"), and that CWP was filed here with an application for a CPCN.<sup>1</sup>

In response to the Commission's Show Cause Order on November 2, 2011, Shelby Energy filed a response acknowledging that it commenced construction of its AMI project before obtaining a CPCN, but noted that it has historically requested approval of work plans and has not previously been cited for beginning construction of work plan projects prior to receiving a CPCN. Further, Shelby Energy maintained that its violation was not willful in nature and was not an intentional disregard of either KRS

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<sup>1</sup> Case No. 2010-00244, Application of Shelby Energy Cooperative, Inc. for a Certificate of Public Convenience and Necessity for its 2010-2014 Construction Work Plan, filed July 23, 2010 (Ky. PSC Aug. 3, 2011).

278.020(1), which requires a CPCN to be obtained prior to beginning the construction of utility facilities, or the July 27, 2010 Order in Shelby Energy's last rate case, wherein the Commission stated that "[a]ny projects involving significant capital investment by the cooperative, such as AMI, must be included in a work plan that is filed with the Commission and approved by our issuance of a CPCN prior to proceeding with any project activities."<sup>2</sup>

Shelby Energy requested, and the Commission scheduled, an informal conference to discuss the issues in this case and the scheduled hearing was cancelled. Subsequent to that conference, Shelby Energy and Commission Staff entered into a Stipulation and Settlement Agreement ("Stipulation"), which was filed on February 17, 2012. In the Stipulation, attached hereto as an Appendix and incorporated herein by reference, Shelby Energy acknowledged that a CPCN should have been obtained before beginning construction of the AMI project, which was one of the projects in its 2010-2014 CWP. Shelby Energy also provided copies of revised internal procedures that it adopted to ensure that future CWP's are filed here in a timely manner and that construction does not begin on projects before the Commission issues a CPCN. A copy of those revised internal procedures is attached to the Stipulation as Exhibit A. In addition, Shelby Energy agreed to pay a civil penalty of \$2,000.00 in full satisfaction of the alleged violation of KRS 278.020(1).

In determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Stipulation, Shelby Energy's willingness to develop and implement internal

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<sup>2</sup> Case No. 2009-00410, Application of Shelby Energy Cooperative, Inc. for an Adjustment of Rates (Ky. PSC Jul. 27, 2010).

protocols to ensure that future construction work plans are filed for approval in a timely manner, and Shelby Energy's cooperation to achieve a resolution of this proceeding. Shelby Energy's new protocols include two separate procedures related to ensuring that CWP's are not started prior to the Commission's issuance of a CPCN: (1) a 19-step checklist for Shelby Energy's development of CWP's and obtaining a CPCN before construction begins; and (2) written job descriptions assigning Shelby Energy's System Engineer, Manager of Engineering, and Vice President of Operations and Engineering responsibility for filing applications for, and obtaining, CPCNs from the Commission before construction begins.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Commission further finds that the Stipulation is a product of arms-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

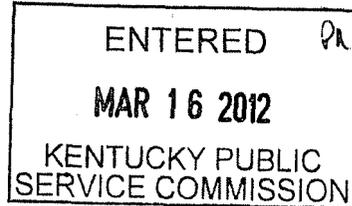
IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. Shelby Energy shall pay the amount of \$2,000.00 within 30 days of the date of this Order by cashier's check or money order made payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602.

3. Upon receipt of the payment of \$2,000.00 by Shelby Energy, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2011-00403 DATED **MAR 16 2012**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SHELBY ENERGY COOPERATIVE, INC.	)	
	)	
_____	)	CASE NO.
	)	2011-00403
ALLEGED FAILURE TO COMPLY WITH KRS	)	
278.020(1)	)	

**STIPULATION OF FACTS AND SETTLEMENT AGREEMENT**

By Order dated October 10, 2011, the Commission initiated this proceeding to determine whether Shelby Energy Cooperative, Inc. ("Shelby Energy") should be subject to the penalties prescribed in KRS 278.990 for allegedly violating KRS 278.020(1) by beginning construction of Advanced Metering Infrastructure ("AMI"), which was a project included as an amendment to its 2010-2014 Construction Work Plan ("CWP"), without first obtaining a Certificate of Public Convenience and Necessity ("CPCN").

On November 2, 2011, Shelby Energy filed a response to the Commission's October 10, 2011 Order. Shelby Energy acknowledged that it commenced construction of its AMI project before obtaining a CPCN, but noted that it has historically requested approval of work plans and has not previously been cited for beginning construction of work plan projects prior to receiving a CPCN. Further, Shelby Energy maintained that its violation was not willful in nature and was not an intentional disregard of KRS

278.020 or the Commission's July 27, 2010 Order in Shelby Energy's last rate case, Case No. 2009-00410<sup>1</sup>.

Shelby Energy also filed a request for an informal conference, which was subsequently held at the Commission's offices on November 15, 2011. Discussions during the informal conference between Shelby Energy and Commission Staff resulted in the following Stipulation of Facts and Settlement Agreement ("Stipulation"), which is submitted for the Commission's consideration in rendering its decision:

1. Shelby Energy acknowledges that a CPCN should have been obtained, but was not, before beginning construction of its AMI, which was one of the projects contained in its 2010-2014 CWP.

2. Shelby Energy has recently developed and adopted internal procedures to ensure that future construction work plans will be filed with the Commission in a timely manner and that construction does not begin on projects before the Commission issues a CPCN. These procedures include the establishment of a detailed checklist for preparing construction work plans, filing for a CPCN, and receiving a CPCN before construction begins. In addition, Shelby Energy has supplemented the job descriptions in its employee manual to include specific responsibilities for its engineering personnel relating to the development of construction work plans and obtaining necessary regulatory approvals. Shelby Energy's new checklist for processing construction work plans and its revised employee job descriptions were attached to its response filed on November 2, 2011, and are attached hereto as Exhibit A.

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<sup>1</sup> Case No. 2009-00410, Application of Shelby Energy Cooperative, Inc. for an Adjustment of Rates (Ky. PSC Jul. 27, 2010).

3. Shelby Energy agrees to pay the amount of \$2,000.00 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's October 10, 2011 Order as to whether Shelby Energy should be assessed penalties under KRS 278.990 for a willful violation of KRS 278.020. The Commission's acceptance of this Stipulation shall not be construed as a finding of a willful violation of any Commission statute or order.

4. In the event that the Commission does not accept this Stipulation in its entirety, Shelby Energy and Commission Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties thereto, used as an admission by Shelby Energy of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the October 10, 2011 Order, or otherwise used as an admission by either party.

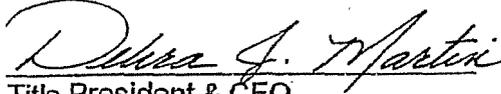
5. This Stipulation is for use only in Commission Case No. 2011-00403, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of Shelby Energy's service, and Shelby Energy shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Shelby Energy and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2011-00403, is in the public interest, and should be adopted in its entirety by the Commission.

If so adopted by the Commission, Shelby Energy agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this 13 th day of February, 2012.

Shelby Energy Cooperative, Inc.

  
Title President & CEO

Kentucky Public Service Commission

  
Richard G. Raff

# **EXHIBIT A**

**REVISED**

9;66 bn - P du37- 3122

**SHELBY ENERGY COOPERATIVE  
POSITION DESCRIPTION**

**JOB TITLE:** Manager of Engineering      **LOCATION:** Engineering  
**FLSA STATUS:** Exempt      **EEO CODE:** 01-A  
**REPORTS TO:** VP of Operations & Engineering      **NRECA JOB CODE:** 16C

**GENERAL SUMMARY:**

Under general supervision of the VP of Operations & Engineering, the primary responsibility is to manage, direct, coordinate and control the design and quality of the distribution facilities necessary to provide the safest and most efficient and reliable delivery of service consistent with sound engineering practices. This includes providing reliable metering services that take in testing, installation and other various functions.

**ESSENTIAL DUTIES AND TASKS:**

1. Manage and direct an engineering and technical support staff, addressing conflicts and issues as they occur.
2. Manage and direct information technology functions and staff.
3. With assistance of engineering and other employees accountable for preparing multi-year construction work plans. Work directly with system engineer and assist with appropriate filings to obtain RUS approval and the Kentucky Public Service Commission Certificate of Public Convenience and Necessity (CPCN) prior to construction of plant. Preparation of the CWP will require Financial Forecasting coordination with the accounting and finance department of the Cooperative.
4. Learn and remain current about the Cooperative's service territory, facilities and system design.
5. Learn and remain current about Kentucky Public Service Commission (PSC) rules and regulations along with those of the Cooperative including established policies and procedures.
6. Learn and remain current about RUS standards and bulletins relating to engineering, loans, contracts, construction work plan coding and other requirements.
7. Monitor construction projects to assure compliance with NEC, NESC, RUS and Cooperative requirements.

**REVISED**

9;68 bn - Pdu37- 3122

**SHELBY ENERGY COOPERATIVE  
POSITION DESCRIPTION**

**JOB TITLE:** System Engineer

**LOCATION:** Engineering

**FLSA STATUS:** Non-Exempt (As of 11/11)

**EEO CODE:** 02

**REPORTS TO:** Manager of Engineering

**NRECA JOB CODE:** 160

**GENERAL SUMMARY:**

Provide engineering knowledge and expertise in the production of sectionalizing studies, work plans, long range plans, transformer and other equipment evaluations, and other engineering studies to assure system reliability and efficiency.

Maintaining the proper performance of metering devices, voltage regulation devices and other special electronic equipment related to the electric utility industry.

Responsible for the operation of electronic data collection and monitoring systems that interface with the Cooperative's local network and its various interfaces within the distribution system.

**ESSENTIAL DUTIES AND TASKS:**

1. Assists with evaluation of electric distribution system reliability and efficiency studies -- including voltage drop, fault current, load balance, arc flash studies and long range distribution planning.
2. Works directly with management and other engineering employees to prepare multi-year construction work plans. Accountable for preparation of appropriate filings to obtain RUS approval and the Kentucky Public Service Commission Certificate of Public Convenience and Necessity (CPCN) prior to construction of plant. Preparation of the CWP will require Financial Forecasting coordination with the accounting and finance department of the Cooperative.
3. Test and calibrate single and polyphase watt-hour meters, demand meters, recording volt meters, substation demand reduction devices, etc. in conjunction with the Cooperative policies and Public Service Commission regulations.
4. Provide inter-departmental support and training: such as line distribution equipment installations and support to the Billing Department on metering and large load accounts.
5. Develop strategies to assist with member complaints due to voltage sags, blink, etc.
6. Responsible for requesting specific quotes and purchasing specialized equipment.

**REVISED**

8:58 am, Oct 26, 2011

**SHELBY ENERGY COOPERATIVE  
POSITION DESCRIPTION**

**JOB TITLE:** Vice President of Operations & Engineering      **LOCATION:** Operations & Engineering  
**FLSA STATUS:** Exempt      **EEO CODE:** 01-A  
**REPORTS TO:** President & CEO      **NRECA JOB CODE:** 16A

**GENERAL SUMMARY:**

Direct engineering, operations, safety, and maintenance functions and department personnel, in the design of the optimum electric system consistent with RUS requirements, safe practices, current regulations, codes, and sound engineering, construction, and maintenance principals that produce quality, effective and efficient electric service to our customers. Maintain and enhance key accounts program. Supervise and direct engineering and construction personnel and provide overall direction and control.

Provide leadership and direction which will prompt high morale, job satisfaction, and team effort. Maintain excellent communications and cooperative behavior with all departments and areas of the Cooperative.

Keep President & CEO informed of what is happening in assigned areas of responsibility with routine updates. To inform the President & CEO of concerns, emergencies, and /or cooperative news while the CEO is away from the office.

**ESSENTIAL DUTIES AND TASKS:**

**A. Electric System Planning:**

1. Direct preparation of a Long-Range Plan for the orderly development of the electric system while analyzing various alternatives to determine the best possible plan.
2. Assist East Kentucky Power Cooperative in the preparation of Power Requirement Studies.
3. Develop system protection studies to optimize protection of the system, customers, and minimize outages. Prepare and maintain outage analysis reports.
4. Accountable for directing the timely preparation of Construction Work Plans. Responsible for verifying appropriate filings are prepared to obtain RUS approval and the Kentucky Public Service Commission Certificate of Public Convenience and Necessity (CPCN) prior to construction of plant. Preparation of the CWP will require Financial Forecasting coordination with the accounting and finance department of the Cooperative.
5. Develop and administer a comprehensive Right of Way plan for the cooperative. This plan should also consider the use of herbicides and other alternative solutions.

# SHELBY ENERGY COOPERATIVE

KY 30 Shelby

Shelbyville, Kentucky

YYYY ~ YYYY Construction Work Plan

Date: \_\_\_\_\_

## Process Schedule for Preparation of Construction Work Plan

Step	Process	Employee/Responsibility (or Process)	Projected Completion	Date Complete	Employee Certification (Initial)
1	Meet with CEO and Staff to Discuss Plan Outline		Week 01		
2	Meet with RUS GFR to Discuss Plan Details / Guidelines		Week 01		
3	Gather County and Other Agency Comprehensive Plans		Week 02		
4	Discuss Specific System Issues w / Operations		Week 04		
5	Develop and Run Engineering Models per Current Load Forecast		Week 08		
6	Examine CWP Engineering Analysis Results for Validity		Week 09		
7	Develop CWP Recommendations		Week 13		
8	Submit "Letter of Intent to File" for CWP CPCN to PSC		Week 14		
9	Prepare Historical and Projected Cost Data		Week 15		
10	Meet with RUS GFR to Discuss Historical / CWP Costs		Week 15		
11	CEO and Staff Final CWP Budget Consideration		Week 17		
12	Review / Obtain Final Approval for CWP with RUS GFR		Week 17		
13	Prepare Board of Directors CWP Exec Summary		Week 18		
14	Board Presentation / Approval Resolution		Week 19		
15	Develop / File Application for CPCN with the KY PSC		Week 20		
16	Submit CWP to RUS Washington, D.C. (Inc. BER)		Week 20		
17	Await Final RUS Washington Comments on CWP / BER et al.		Target		
18	Submit Final RUS Washington CWP Approval to PSC		Target		
19	Await Order on CWP CPCN from PSC		Target		
Final	Begin Construction Upon Receipt of PSC Order for CWP CPCN		Target		

RUS: Rural Utilities Service

GFR: General Field Representative for RUS

BER: RUS-Required "Borrowers Environmental Reports" that Certifies CWP will have minimum Impact

CWP: Construction Work Plan

CPCN: Certificate of Public Convenience and Necessity

notes:

(\*) Employee responsibilities will be assigned prior to beginning the CWP

(\*\*) The above schedule is subject to change based on the flow of work after beginning the CWP

Debbie Martin  
President & CEO  
Shelby Energy Cooperative, Inc.  
620 Old Finchville Road  
Shelbyville, KY 40065

Honorable Donald T Prather  
Attorney At Law  
Mathis, Riggs & Prather, P.S.C. Attorneys at Law  
500 Main Street  
Suite 5  
Shelbyville, KENTUCKY 40065